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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/053,650	04/02/1998	KWANG CHEOL JOO	03586.0013	1592
22852	7590	04/06/2006	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			BROWN, RUEBEN M	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/053,650

Applicant(s)

JOO ET AL.

Examiner

Reuben M. Brown

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See enclosed Advisory Action.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


PRIMARY EXAMINER

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 1/24/2006 have been fully considered but they are not persuasive. Applicant argues that the combination of Metz & Yen does not read on the claimed elements. First of all, examiner points out that the last paragraph of claim 27 includes features that are recited in the alternative. Thus it is only required that one or the other limitation to be met in order to reject the claim. In particular, the first alternative is, one of 'a version number of the control program stored in the second domain'. The second alternative is, 'a predetermined number indicating that the download procedure for updating the control program in the second domain was suspended due to a power failure or a signal transmission error'. The third alternative is, 'wherein the initial boot routine includes checking whether or not a value stored in the first domain is the predetermined number and, when the value is the predetermined number, automatically updating the control program'.

Notwithstanding the breakdown of the claims that only requires one of the three alternatives to be met in order to reject the claim, examiner still maintains that the combination of references actually reads on the claimed subject matter. With respect to the first alternative, as cited by examiner, col. 9, lines 55-59, "the microprocessor of the DET 102 will check the operating system version number on the network for the particular type set-top terminal by comparing data contained in one of the packets from the received transport stream to data

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stored in memory". Metz goes on to teach that, "if no errors are found, the microprocessor transfers the version of the operating system from RAM to non-volatile memory, col. 10, lines 7-12. Furthermore, "the microprocessor copies the operating system, sector by sector, from volatile RAM 122 **into the flash memory non-volatile RAM 121**. As pointed in the citation of col. 9, lines 55-59, the operating system includes its version number.

Regarding the second alternative, as pointed out by the examiner, the checksum procedure checks the bit pattern, in order to detect whether there has been a transmission error of the download program, see Metz, col. 37, lines 44-62 & col. 38, lines 14-30 & Fig. 9.

Regarding the third alternative, the claimed limitation reads on checking to see if a downloaded operating system has an error due to power failure or transmission error, and if so automatically updating the operating system. Applicant argues on page 3 that the updating in Metz is not performed during the initial boot routine, examiner points out that Yen is provided to meet this requirement. Applicant also argues on page 4 that Yen does not meet the cited limitation because it discloses that screens may be used to guide a user. Examiner notes that 'automatically' does not necessarily equate to, 'without user intervention', which is not recited in the claims. Notwithstanding this discussion, Yen clearly teaches that at least in one embodiment, when the control program is determined to be corrupted that an alternate control program is located and initiated, without user intervention, which reads on automatically, col. 3, lines 45-67 thru col. 4, lines 1-30. As for the claimed 'updating', Yen teaches that the new control program

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may be located on a different device, such as on a network server, col. 4, lines 22-27, the transmission of which to the user reads on 'updating'.

Any response to this action should be mailed to:

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or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown


HAI TRAN
PRIMARY EXAMINER